



Date: 08 APR 1990

Case No.: 90-TLC-017

In the Matter of

MERGL MEATS AND CORNER STORE,
Employer

on Behalf of

UNIDENTIFIED,
Alien

Before: AARON SILVERMAN
Administrative Law Judge

DECISION AND ORDER

This case arises under Part 655 of Title 20 of the Code of Federal Regulations (20 C.F.R. §655 et al) covering the labor certification process for the temporary employment of aliens in the United States.

Mr. Frank Mergl, owner and operator of "Mergl's Meats and Corner Store," the Employer, herein, filed an application on February 27, 1990, to hire an alien, unidentified in this case file, to be his farm manager for the anticipated period of employment from May 1990 to April 1991. The Alien's duties would be to grow feed crops for dairy, beef and pork and fresh vegetables for the Employer's own market and an association of which he is a member. In addition, the Alien would train other employees in natural farming without the use of chemical fertilizers, steroids or antibiotics.

On March 21, 1990, the Regional Administrator of the Employment and Training Administration advised the Employer that his application did not meet the applicable regulatory requirements, and was not being accepted on the grounds that "the availability of U.S. workers cannot be tested because the benefits, wage rates, and/or working conditions do not meet the criteria of the regulations." In addition, he was advised as to how to obtain assistance with his application and of other remedial procedures available to him including this administrative/judicial review. The Employer chose not to accept the offer of assistance to perfect his application, but, instead, opted for this administrative-judicial review.

Unfortunately, the record for review before this office at this time is almost completely devoid of any of the relevant requisite particulars necessary to process the Employer's application. It is apparent from the file that the Employer is unfamiliar with the requirements associated with the filing of a proper application for alien labor certification, and there is no basis

in this record to take any action other than to affirm the Regional Administrator's decision to deny certification.

Whether or not the Employer still has the time to accept the offer of assistance with his application is a matter he should investigate.

ORDER

Upon consideration of the evidence in this case, the decision of the Regional Administrator denying the application for labor certification is, hereby AFFIRMED.

AARON SILVERMAN
Administrative Law Judge

Washington, D.C.
AS/lc